

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-534

December 29, 2004

WENDELL E. ROCKWELL, ET AL.
Request for Commission Investigation
Into the Telephone Service on
Tibbettstown Road During a
Power Outage

ORDER DISMISSING
COMPLAINT

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order, we dismiss, with conditions, the Complaint filed by Wendell E. Rockwell and 10 other persons pursuant to 35-A M.R.S.A. § 6104 on August 7, 2004 against Verizon. As a result of our investigation into the Complaint – which is when the Complainants lose electric power they lose dial tone soon afterward – we conclude that Verizon has eliminated the cause of the Complaint. We will require, however, that Verizon inspect and test the facilities that were at fault every three months, and to report the results of the inspections and tests, the performance of the facilities when they lose commercial power, and any loss of customer dial tone caused by the failure of the facilities' back-up battery systems.

II. BACKGROUND

The Complainants assert that “when the electric power goes off, the phone goes also . . . this has been an on-going problem for not months, but years.” The Complainants are served by a digital loop carrier system (DLC) installed in 1993 on Tibbettstown Road in Columbia Falls, and by Verizon's Central Office switch in Columbia. Verizon's DLCs rely on commercial power and on battery backup systems when commercial power fails. The backup batteries are designed to last about eight hours under normal weather and call traffic conditions; therefore, loss of dial tone by customers served off a DLC system soon after a power outage would strongly indicate a problem with the DLC's battery backup system, or with facilities that serve the DLC that also rely on back-up batteries when commercial power fails.

Verizon filed its Response to the Complaint on August 18, 2004. The Response states that the Complainant's DLC failed because “an incompatible battery had been put into service . . . with existing batteries [which] *may* be causing a SLC5 backup power system to malfunction during commercial power loss. Verizon has taken steps that *should* alleviate the situation by replacing the battery” (emphasis added). Other than to indicate that the Complainants should report service problems to Verizon's repair center, the Response did not address – and did not dispute – the Complainants'

assertion that their loss of dial tone soon after power outages had been going on for years.

After reviewing Verizon's Response to the Complaint, the Staff served four data requests on Verizon. Verizon's first reply corrected the Response, indicating that, after further investigation, the DLC's problem battery was not that it was incompatible, but that it was dead, which caused a "drawn-down" of the other batteries' power. A subsequent reply to Staff's data requests, however, stated that, after still further investigation, the cause of the Complainants' loss of dial tone soon after a power outage was not a dead DLC battery, but incompatible batteries in a multiplexer that serves the DLC. The multiplexer's batteries, which Verizon reported were installed in 1997, were supposed to be a type with a charge controller, and they were not.

Verizon indicated that it will test the DLC for proper operation every three months until June 2005. Verizon reports that it has placed compatible batteries in the Complainants' DLC and in its multiplexer, and that it has tested the DLC successfully on battery power. Verizon is unable to report how long the DLC operated on battery power, however, or how many calls were made during that time by customers the DLC serves. On November 23, 2004, Staff filed a draft recommended decision for comment by interested parties. Only Verizon filed comments.

IV. DISCUSSION

Even though the Complainants' DLC and its multiplexer do not represent new technologies, Verizon's Response to the Complaint and its responses to Staff's data requests contained three different causes for the Complainants' loss of dial tone. That two investigations by Verizon came up with invalid causes of the Complainants' problem is a cause for concern over Verizon's management of the back-up power of its DLC systems – which is a concern the Commission has expressed repeatedly, including in Orders, after hurricanes in the 1990s, after the 1998 ice storm, and, most recently, after the January 2002 ice storm. In this instance, had Staff issued no data requests and instead recommended the Commission accept the cause and corrective action Verizon identified in its Response to the Complaint – that the DLC had an incompatible battery and that Verizon replaced it – then, assuming the basis of the Complaint is valid (which Verizon has not contested), the next time the Complainants lost power they would again lose dial tone soon afterward. Most troubling is the apparent cause of the Complaint – incompatible batteries in remote electronic equipment, which first surfaced in June of 2001, proved to affect hundreds of DLCs, and had not been fully rectified before the January 2002 ice storm hit Maine. From Staff's investigation of this Complaint, we find that not only DLCs had incompatible batteries, but so did at least one remote multiplexer.

V. DECISION

We conclude that, after its three investigations into the cause of the Complaint, Verizon has arrived at the correct cause, and has eliminated it. We believe, however,

that Verizon must demonstrate that the Complainants' DLC and its multiplexer will function and process calls for a reasonable period of time during a commercial power outage. Therefore, we order:

1. That Verizon inspect and test the Complainants' DLC and its multiplexer every three months, for twelve months after the initial test.
2. That during the same twelve-month period Verizon report:
 - (a) the results of the DLC and multiplexer inspections and tests, and
 - (b) the performance of those facilities any time they, and the customers they serve, lose commercial power; any loss of customer dial tone caused by the failure of the facilities' backup batteries, and how long the customers had dial tone before the batteries failed; and why Verizon was unable to keep the facilities operating until commercial power was restored.
3. That within 120 days¹ of the date of this Order Verizon certify that it has eliminated all instances of incompatibility between batteries and battery chargers in all DLC systems, multiplexers, and other remote electronic equipment.

Dated at Augusta, Maine, this 29th day of December, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

¹Verizon's only exception to the Staff's recommended decision was that it have 120 days rather than 30 days. We grant that request.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.